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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,028	11/01/2000	Gary G. Lenihan	060545/0456	2436

7590 04/13/2005
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EXAMINER

MILLER, BENA B

ART UNIT PAPER NUMBER

3714

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/704,028

Applicant(s)

LENIHAN, GARY G.

Examiner

Bena Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6, 9, 12-14, 16, 17 and 22-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-24 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 9, 12-14, 16, 17 and 25-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Bena Miller

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Due to new prior art discovered by the Examiner, the Final Office Action of 12/23/04 has been withdrawn. Applicant's attention is directed to the following Detailed

pm Office ACTION *w*

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6 and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Klein.

Regarding claim 1, Klein teaches in figure 6, a main unit (see attached marked copy 1 of figure 6), the main unit having a front wall, opposite side walls and countertop extending lengthwise (see marked copy figure 6), a repositionable island (mark copy figure 6), the repositionable island being removably attachable to the front wall of the main unit (the edge of the front wall is attached to the repositionable island in figure 6), and the repositionable island is extending away form the front wall of the main unit thereby to form at least two separate play areas (fig.6). It should be noted in Attachment 2, that the front wall edge and the repositionable island edge is perpendicular to one another.

Regarding claim 2, Klein further teaches the repositionable island is removably attachable to the main unit at least one of the side walls (fig. 6).

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Regarding claim 3, Klein further teaches the main unit and repositionable island comprising a stove top and a countertop.

Regarding claim 6, Klein further teaches the repositionable island, when removed from the front wall of the main unit, is removal by attachable to either one of the sides of the main unit in figure 6.

Regarding claim 25, Klein further teaches the island is removably attached to the front wall (it should be noted that the repositionable island can be attached to the edge of the front wall on either side).

Regarding claim 26, Klein further teaches the island is removably attached to the main unit at the side walls (fig.6).

Regarding claim 27, Klein further teaches a second island removably attached to the side walls (fig.6).

Alternatively, regarding claim 1, Klein teaches in figure 6, a main unit (see attached marked copy 2 of figure 6), the main unit having a front wall, opposite side walls and countertop extending lengthwise (see marked copy figure 6), a repositionable island (mark copy figure 6), the repositionable island being removably attachable to the front wall of the main unit (the edge of the front wall is attached to the repositionable island in figure 6), and the repositionable island is extending away form the front wall of the main unit thereby to form at least two separate play areas (fig.6). It should be noted in Attachment 2, that the front wall edge and the repositionable island edge is perpendicular to one another.

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Claim 12 –14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Medgebow (US Patent 3,904,041).

Medgebow teaches a "toy kitchen" having a first unit (C,B) with a first plane as claimed and at least one removable and repositionable second unit (A) having a second plane perpendicular to the first plane as claimed and being positionable so that the first and second planes are substantially coplanar when positioned on the short edge of the first unit. See also Col. 3, lines 45+. It is noted that the term "toy" breathes no life and meaning into the claims so as to structurally differ between that claimed and the device of Medgebow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Houry et al (US Patent D345592) in view of Mariol (US Patent 4,515,359).

Houry teaches a toy kitchen having a main unit with a front surface (see surface in figure 1 in which the rightward extending lateral shelf extends), a repositionable "island" (see above described shelf which defines an "island" in as much structure set forth in the claims) with the island being perpendicular to the front surface as claimed, wherein the main unit includes an opening extending from a front side to a rear side (see window above sink; It should also be noted that applicant has not defined the front

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side as the front surface) with a "window sill" positioned at the opening as claimed.

Although it is unclear if the island is removably attachable to the front surface as claimed, it is well known in toys that parts be removably attached so as to reduce shipping volume. Attention is directed to the device of Mariol, which discloses another toy kitchen having a repositionable island (61) removably attachable to the front surface of a main unit (see proximate lead line 11). See also col. 4, lines 31-62 wherein it is very well accepted that the protuberance (64) received in a predrilled hole is readily removable by simple flexing since they have to be flexed in order to be installed. It would have been obvious to one having ordinary skill in the art at the time of the invention to install the island in Houry similar to the device in Mariol in order to reduce shipping volume and/or allow replacement of the island in the event of damage.

Allowable Subject Matter

Claims 22-24 are allowed.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 571.272.4427. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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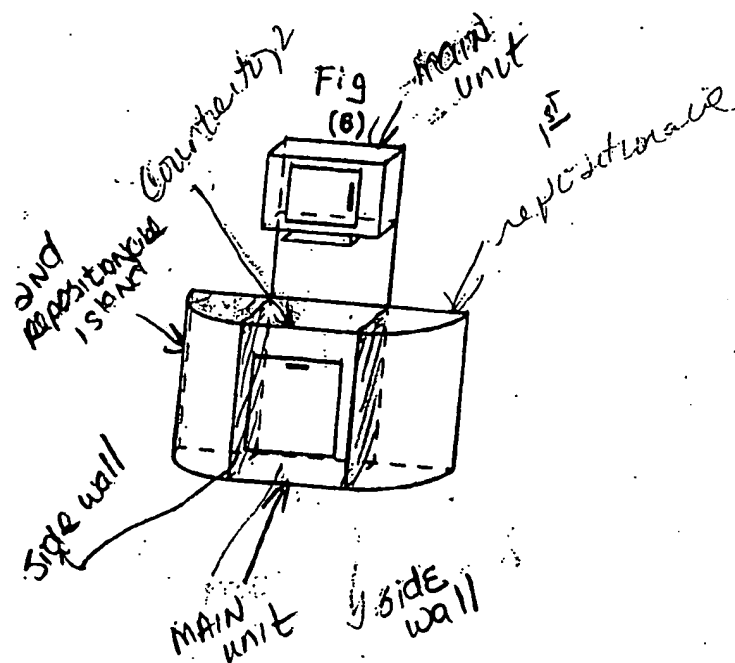
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bena Miller
Primary Examiner
Art Unit 3714

bbm
April 11, 2005

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Attachment 1:



Attachment 2:

